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November 27, 2012

E-FILED, VIA FEDERAL EXPRESS

Magistrate Judge Joseph C. Spero
United States District Court for the
Northern District of California
San Francisco Courthouse
Courtroom G, 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94110

Re: McHale v. Silicon Valley Law Group ("SVLG"), Case No. C 10-04864 (JCS)

Dear Judge Spero:

We represent the plaintiff in the above-referenced matter. We write on behalf of plaintiff and defendant to jointly request a telephonic status conference with the Court on Friday, November 30, 2012, at 1:30 p.m., or at the earliest possible time convenient to the Court, concerning the need and desire of both sides to obtain a small adjustment in the time limit for filing the packets with the Court setting forth the disputes on exhibits and testimony, which disputes require rulings by the Court prior to the final pretrial conference on March 15, 2013. This matter was the subject of the stipulation submitted this week (Doc. 99), which your Honor just denied (Doc. 100). We respectfully submit that for the reasons set forth below, a telephonic status conference would be useful so the Court will better understand why the need for this request is compelling and that the slight delay should have no effect on the Court.

The Court's original scheduling Order entered September 5, 2012 ("Order," Doc. 93), required the parties to file with the Court on March 5, 2013 (ten days before the final Pretrial Conference) packets of objections to (i) exhibits, and (ii) designations of deposition testimony in the form provided for therein (the "Packets"). On September 26, 2012, the Court approved the parties' September 25 stipulation for a revised schedule for motions and the submission of the Packets (Doc. 95). On November 16, 2012, the Court approved the parties' further stipulation as to the lengths of certain of these briefs (Doc. 96).

On November 19, SVLG filed a motion for partial summary judgment (Doc. 98) and served two motions *in limine* (not yet filed per the Court's Order), and the Plaintiff served two

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motions *in limine* (not yet filed per the Court's Order) (collectively, the "Motions"). These Motions present significant issues and require substantial efforts by both sides between now and December 19, when responses are due and the Court will receive all papers.

From August 2012 to date, the parties have been working long hours to meet and confer in order to narrow the issues and eliminate as many disputes as possible with respect to exhibits and the deposition testimony. SVLG's counsel is a three-lawyer firm with two partners, and Ms. Sturmer has devoted at least 50% of her time to meeting the obligation under the Order to prepare this case, with the occasional assistance from an associate attorney. In our case, three or more attorneys have been working heavily to do the same. We have been reviewing and discussing at least 17 volumes of deposition testimony and more than 600 potential exhibits. We have succeeded in narrowing this significantly, and this work still continues productively. We think it would be counterproductive to file the evidentiary disputes as early as December 19, and, respectfully, do not think it is really possible to complete the work necessary by that date, particularly in view of the substantial work that remains to respond to the Motions.

When the parties submitted their September 25 stipulation moving up the date on the Packets from March 5 to December 19, they did not fully appreciate (1) the magnitude of the consultations between them that would be required, (2) the magnitude of the work physically necessary to submit the Packets in the form required by the Court, and (3) the time needed on the Motions. We apologize for that, but in hind sight we were unrealistic to move the date up by almost three months. We just do not think the resources are available to do that part of the job by the current deadline.

For this reason, this week we jointly proposed what we considered to be a limited modification as to the Packets only, to wit, filing them in January. We did not know if the Court intended to hear any argument on them, and if so, whether it would be at the January 25 hearing on the Motions, or at a later date. We proposed January 15, because that was ten days prior to the January 25 hearing, was similar to the ten day period in the September 5 Order, and almost two months before the March 15 Final Pretrial Conference, leaving enough time for the Court's rulings and for us to prepare the final deposition video clips, transcripts, and the exhibits in response to those rulings. We could probably file these Packets on an early date in January, if the Court preferred.

The parties have been engaged, and continue to engage, in productive efforts to resolve evidentiary disputes in this case, which have resulted in filing fewer *in limine* motions, and will result in further stipulations narrowing our disputes. In view of this, we request an opportunity to further discuss this proposed change with the Court at a telephonic status conference on Friday, November 30, 2012, on the Court's 1:30 p.m. calendar. If this request is granted, I will appear

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for the Plaintiff and can be reached directly at 212-907-7348, and Debra Sturmer will appear for the Defendant and can be reached directly at 415-217-6342. Counsel understand that they are to be available at 1:30 p.m. to accept the Court's call and to remain on standby until the call is received.

Respectfully,



Michael S. Devorkin

cc: Clerk of the Court (by Federal Express)
(Via email)
Debra Sturmer, Esq. (counsel for defendant)

Dated: 11/27/12

